



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,460	12/13/2001	Charles E. Taylor	SHPR-01041USJ SRM	3479

23910 7590 02/19/2003

FLIESLER DUBB MEYER & LOVEJOY, LLP  
FOUR EMBARCADERO CENTER  
SUITE 400  
SAN FRANCISCO, CA 94111

EXAMINER

TRAN, THAO T

ART UNIT PAPER NUMBER

1711

DATE MAILED: 02/19/2003

11

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/023,460

Applicant(s)

TAYLOR ET AL.

Examiner

Thao T. Tran

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 25-92 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-92 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Response to Amendment***

1. This is in response to the Amendments received on November 25, 2002. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.
2. Claims 25-92 are currently pending in this application. Claims 62-92 have been newly added.

### ***Claim Rejections - 35 USC § 112***

3. The rejection of claims 35, 37, and 54 ~~are rejected~~ under 35 U.S.C. 112, second paragraph, in the prior Office Action of September 6, 2002, has been withdrawn in view of the Amendments made thereto.

### ***Double Patenting***

4. Claims 25-26, 28, 38, 40, and 42 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2, 7-8, 12-13, and 17-18 of Co-pending Application, Serial No. 09/897,267. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the Co-pending Application contain the subject matter that is narrower in scope than that in the instant claims, rendering them obvious over each other.

In regards to instant claims 25-26, claims 1, 7, 8, 12, 13, 17 in the patent teach an electro-kinetic air transporter-conditioner, comprising a housing defining at least one vent; a self-

contained ion generator disposed within the housing; the ion generating unit having a plurality of pin-ring electrode configurations, each including a pin electrode and a ring electrode.

Claim 1 of the patent further teaches a means for attaching the housing to an animal container, making the claims of the patent narrower in scope than that in the instant claim 25.

In regards to instant claim 28, claims 2 and 13 of the patent teach the use of duty cycle control.

In regards to instant claims 38, 40, and 42, claims 7-8 and 17-18 of the patent teach the pin electrodes including a plurality of conductive fibers, and the ring electrode having a central through opening, which reads on the skirt region in the instant claims, and the pin electrode pointing in a downstream direction.

Hence, the claims of the patent encompass the instant claims, rendering them obvious over each other.

5. Claims 25-26, 28, 38, 41-43 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2, 4-5 of Co-pending Application, Serial No. 10/023,197. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the Co-pending Application contain the subject matter that is broader in scope than that in the instant claims, rendering them obvious over each other.

In regards to instant claim 25, claim 1 of the patent teaches an electro-kinetic air transporter-conditioner, comprising a housing and an ion generator. Claims 2 and 4-5 of the patent teach the ion generator having a plurality of pin-ring electrode configurations, each configuration including a pin electrode that is directed toward a ring electrode.

Therefore, claim 1 of the patent contains the subject matter that is broader in scope than that of the instant claim, rendering them obvious over each other.

In regards to instant claims 26, 28, 38, and 41-43, claims 2-5 of the patent teach all of the limitations recited in the instant claims.

6. Claims 25-26, 28, 33, and 41-43 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4-6, 11-13, 16, 21, and 23 of U.S. Patent No. 5,975,090. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the patent contain the subject matter that is narrower in scope than that in the instant claims, rendering them obvious over each other.

In regards to instant claim 25, claims 1, 6, 12, 16, and 21 of the patent teach an apparatus, comprising a housing, an ion generator disposed within the housing; the ion generator having a plurality of pin-ring electrode configurations, each configuration including a pin electrode that is directed toward a ring electrode.

In regards to instant claims 25-26, 28, 33, and 41-43, claims 1, 4-6, 11-13, 16, 21, and 23 teach all the limitations as recited in the instant claims.

Therefore, the claims of the patent contain the subject matter that is narrower in scope than that of the instant claim, rendering them obvious over each other.

7. Claims 25-26, 28, 33, and 41-43 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 12 and 17-19 of U.S. Patent No. 6,176,977. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the patent contain the subject matter that is narrower in scope than that in the instant claims, rendering them obvious over each other.

In regards to instant claims 25-26 and 41-43, claims 12 and 17-18 of the patent teach an apparatus, comprising a housing, an ion generator disposed within the housing; the ion generator having a first electrode array including at least one electrode having a pointed tip in a downstream direction and a second electrode array that includes at least one electrically conductive member defining at least one circular opening in a downstream direction from the pointed tip of the first electrode, the second electrode having a skirt region that surrounds a periphery of the circular opening.

In regards to instant claims 28, 33, claims 12 and 19 teach all the limitations as recited in the instant claims.

Therefore, the claims of the patent contain the subject matter that is narrower in scope than that in the instant claims, rendering them obvious over each other.

8. Claims 25-26, 28, 33, 38, and 41-43 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3, 7-8, 12, 14, and 17-22 of U.S. Patent No. 6,312,507. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the patent contain the subject matter that is narrower in scope than that in the instant claims, rendering them obvious over each other.

In regards to instant claims 25-26, 28, and 41-42, claims 1, 7-8, 12, 17-19, and 21-22 of the patent teach an apparatus, comprising a housing; an ion generator disposed within the housing; the ion generator having a plurality of pin-ring electrode configurations, each configuration including a pin electrode that is directed toward a ring electrode; and a duty cycle control.

In regards to instant claims 33, 38, and 43, claims 3, 14, and 20 teach all of the limitations as recited in the instant claims.

Therefore, the claims of the patent contain the subject matter that is narrower in scope than that in the instant claims, rendering them obvious over each other.

***Claim Rejections - 35 USC § 103***

9. The rejection of claims 25-33, 35-37, 39, 41-52, 54-56, and 58-60 under 35 U.S.C. 103(a) as being unpatentable over Krause (US Pat. 5,578,112), in the prior Office Action of September 6, 2002, has been withdrawn in view of the Amendment made thereto.

10. Claim 61 is rejected under 35 U.S.C. 103(a) as being unpatentable over Krause.

Krause teaches an apparatus, comprising an elongated housing (enclosure 12 or duct 2) with an air inlet vent (intake port) and an air outlet vent (exhaust port); an ion generating unit (ionizer) positioned inside the housing; the ion generating unit having a plurality of pin-ring electrode configurations (ionizing and collector electrodes) (see Fig. 1 col. 1, ln. 65 to col. 2, ln. 29; col. 3, ln. 23-29 and 51-64).

Krause further teaches a plurality of the pin electrodes (ionizing electrodes) (see Fig. 1; col. 3, ln. 42-46), but the reference does not teach a plurality of ring electrodes corresponding to pin electrodes.

Although Krause does not teach a plurality of ring electrodes corresponding to pin electrodes; it has been held that mere duplication of parts has no patentable significance. See MPEP 2144.04.

With respect to the housing being positioned in an upright position, it has been within the skill in the art that whether the housing is being position upright or horizontal would have no significant patentable weight.

11. The rejection of claims 34, 40, 53, and 57 under 35 U.S.C. 103(a) as being unpatentable over Krause as applied to claims 25 and 44 above, and further in view of Thompson (US Pat. 5,315,838), in the prior Office Action of September 6, 2002, has been withdrawn in view of the Amendments thereof.

#### *Response to Arguments*

12. Applicant's arguments filed on November 25, 2002 have been fully considered.

With respect to the arguments that Krause teaches a horizontal housing, instead of an upstanding housing, it is hereby noted that orientation of the housing would have insignificant patentable weight. In regard to the pin-ring electrode configurations; since Krause does teach one pin-ring electrode configuration, it has been within the skill in the art that duplication of the electrode configuration would have no significant patentable weight. Applicants point out the difference between the pin electrode configuration of Krause and the instantly claimed invention. However, the claim language only uses a pin-ring electrode configuration, not the specific pin electrode structure to distinguish the presently claimed invention from the prior art.



***Conclusion***

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

New prior art has been found upon the Amendments received on November 25, 2002. In order to put the application in conditions for allowance, Applicants are advised to amend the claims to overcome obviousness-type double patenting by the following prior art:

Taylor et al. (US Pat. 5,975,090); Taylor et al. (US Pat. 6,152,146); Taylor et al. (US Pat. 6,163,098); Taylor et al. (US Pat. 6,176,977); Taylor et al. (US Pat. 6,182,671); Taylor et al. (US Pat. 6,312,507); Lau et al. (US Pat. 6,451,266); Taylor et al. (App. Serial No. 09/730,499); Taylor et al. (App. Serial No. 09/742,814); Taylor et al. (App. Serial No. 09/897,267); Taylor et al. (App. Serial No. 10/023,197); Taylor et al. (App. Serial No. 10/074,082); Taylor et al. (App. Serial No. 10/074,209); Taylor et al. (App. Serial No. 10/074,549); Taylor et al. (App. Serial No. 10/156,158); Taylor et al. (App. Serial No. 10/188,668).

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

Art Unit: 1711

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thao T. Tran whose telephone number is 703-306-5698. The examiner can normally be reached on Monday-Friday, from 8:30 a.m. - 5:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on 703-308-2462. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

tt

tt

February 10, 2003



**James J. Seidleck**  
**Supervisory Patent Examiner**  
**Technology Center 1700**